

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

IN RE:

Troy Lebeau

US Bank National Association, as Trustee for
Asset-Backed Pass-Through Certificates,
Series 2006-NC2,

VS.

Troy Lebeau

CHAPTER 7
CASE NO. 09-12175-ANV

MOTION FOR RELIEF FROM STAY AND MEMORANDUM IN SUPPORT THEREOF

To the Honorable Arthur N. Votolato:

US Bank National Association, as Trustee for Asset-Backed Pass-Through Certificates, Series 2006-NC2, your moving party in the within Motion, respectfully represents:

1. The movant has a mailing address c/o America's Servicing Company, 3476 Stateview Blvd, Ft. Mill, SC 29715.
2. The debtor, Troy Lebeau, has a mailing address of 36 Black Plain Road, North Smithfield, RI 02896.
3. On June 1, 2009, the debtor filed a petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Rhode Island.
4. The movant is the holder of a first mortgage on real estate in the original amount of \$300,000.00 given by Troy R. LeBeau to New Century Mortgage Corporation on or about July 17, 2006. Said mortgage is recorded with the North Smithfield Land Records at Book 350, Page 208 and covers the premises located at 36 Black Plain Road, North Smithfield, RI 02896.
5. Said mortgage secures a note given by Troy R. LeBeau to New Century Mortgage Corporation in the original amount of \$300,000.00.

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6. As of June 8, 2009, approximately \$332,956.53 in principal, interest, late fees and other charges was due with regard to the note and mortgage. Additionally, reasonable attorney's fees and costs have accrued as a result of this motion.

7. There are the following encumbrances on the property:

<u>Name of Creditor</u>	<u>Type of Lien</u>	<u>Amount Owed</u>
US Bank National Association, as Trustee for Asset-Backed Pass-Through Certificates, Series 2006-NC2	First Mortgage	\$332,956.53
HomeEq Servicing	Second Mortgage	\$ 74,444.00
Total Secured Encumbrances:		\$407,400.53

8. According to the debtor's schedules, the fair market value of the subject property is \$300,000.00.

9. The note and mortgage are in default for the August 1, 2008 payment and all payments thereafter, plus reasonable attorney's fees and costs and other charges incurred by the movant.

10. According to the Statement of Intention, the debtor will surrender the property.

11. The movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the movant states that it is entitled to relief:

I. Pursuant to 11 U.S.C. 362 (d)(1) for cause on the basis that the debtor is in default on said contractual obligations, the primary purpose of a Chapter 7 proceeding is to liquidate the assets of the debtor, there is no equity and the trustee has no motivation to liquidate the subject property;

II. Pursuant to 11 U.S.C. 362 (d)(2) on the basis that there is no equity in the subject

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property and, there being no reorganization in prospect, the property is not necessary for effective reorganization.

WHEREFORE, the movant prays that it, and its successors and/or assigns, be granted relief from the automatic stay for the purpose of: (i) exercising its rights under its agreements with the debtor and under applicable law, including, without limitation, taking possession of the mortgaged premises and/or foreclosing or accepting a deed in lieu of foreclosure of its mortgage on said premises, and bringing such actions, including, without limitation, eviction proceedings, as are permissible by law; (ii) the Court waive the provisions of F.R.B.P. 4001 (a)(3); and (iii) the Court order such other and further relief as may be just and proper.

Respectfully submitted,

US Bank National Association, as Trustee for Asset-Backed Pass-Through Certificates, Series 2006-NC2,
By its Attorney

/s/ Elizabeth A. Lonardo
Elizabeth A Lonardo, Esquire
RI #7714
HARMON LAW OFFICES, P.C.
P.O. Box 610345
Newton Highlands, MA 02461-0345
781-292-3900

June 11 , 2009

Within ten (10) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted

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unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

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CERTIFICATE OF SERVICE

I, Elizabeth A. Lonardo, Esquire, state that on June 11, 2009, I electronically filed the foregoing Motion for Relief and Proposed Order with the United States Bankruptcy Court for the District of Rhode Island using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

Gary L. Donahue, Esquire, Assistant U.S. Trustee
Charles A. Pisaturo, Jr., Esquire, Chapter 7 Trustee
Aram P. Jarret, Jr., Esquire for Debtor

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Elizabeth A. Lonardo
Elizabeth A. Lonardo, Esquire
RI# 7714

Troy Lebeau
36 Black Plain Road
North Smithfield, RI 02896

HomeEq Servicing
PO Box 13716
Sacramento, CA 95853

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